

APPENDIX PERFORMANCE MEASUREMENTS

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APPENDIX PERFORMANCE MEASUREMENTS

1. INTRODUCTION

- 1.1 SBC Communications Inc. (SBC) means the holding company which owns the following ILECs: Illinois Bell Telephone Company (AM-IL), Indiana Bell Telephone Company Incorporated, Michigan Bell Telephone Company, Nevada Bell Telephone Company, Pacific Bell Telephone Company, The Ohio Bell Telephone Company (AM-OH), The Southern New England Telephone Company, Southwestern Bell Telephone Company and/or Wisconsin Bell, Inc. d/b/a Ameritech Wisconsin.
- 1.2 As used herein, AM-IL means Illinois Bell Telephone Company.
- 1.3 As used herein, AM-OH means The Ohio Bell Telephone Company.
- 1.4 As used herein, Service Bureau Provider means a company which has been engaged by a Competitive Local Exchange Carrier ("CLEC") to act as its agent for purposes of accessing SBC-ILEC's OSS application-to-application interfaces.
- 1.5 As used herein, in Illinois, Merger Conditions shall mean those conditions related to the SBC Ameritech merger order by the Illinois Commerce Commission in Docket Number 98-0555.
- 1.6 As used herein, in Ohio, Merger Conditions shall mean those conditions related to the SBC/ Ameritech merger ordered by the Public Utility Commission of Ohio in Case number 98-1082-TP-AMT.
- 1.7 As used herein, Collaborative Process shall mean the performance measurement collaborative process established pursuant to the Merger Conditions.
- 1.8 Neither the existence of any particular performance measure, nor the language describing that measure, shall constitute evidence that any CLEC is entitled to any particular manner of access, nor is it evidence that AM-IL/AM-OH is limited in the manner by which it may provide any particular manner of access. The parties agree that each and every of the CLEC's rights and obligations to such access are defined other than in this Appendix, such as, for example, relevant laws, FCC and state commission decisions/regulations, tariffs, and the interconnection agreement to which this Appendix is attached.

2. RESULTS OF COLLABORATIVE PROCESS

- 2.1 The parties agree that the performance measurements, remedy plans and Business Rules as set forth in the Merger Conditions and developed under the Collaborative Process, shall be incorporated, when finalized, into this Agreement by reference. The parties agree to accept and abide by the Performance Measurement Remedy Plan and Schedule, and the state-specific Business Rules, as posted on SBC/Ameritech's Internet website. AM-IL/AM-OH agrees to maintain the website in accordance with the resolutions achieved within the Collaborative Process.
- 2.2 The parties agree that performance measurements, remedies and Business Rules may be revised through the Collaborative Process, and the parties agree to incorporate such changes that are voluntarily agreed to by all parties to the Collaborative Process when finalized. In the event a party disputes the adoption of a proposed revision from the Collaborative Process, the party may raise the issue in accordance with the procedures for state Commission resolution of Collaborative Process disputes as described in the Merger Conditions. Until a final state Commission order resolving the issue is effective, the parties agree to abide by the performance measures, remedy plans and Business Rules implemented by Ameritech in response to the Collaborative Process as then posted on SBC/Ameritech's Internet website. . The parties acknowledge that the Illinois Commerce Commission ("ICC") has initiated a proceeding in Docket 01-0120 to further address the remedy plan required by the Merger Conditions in Illinois and that AM-IL will be bound by the ICC's final order in that docket (the "0120 Final Order"), subject to either party's right to appeal or otherwise lawfully challenge (together, for purposes of this subsection 2.2, "appeal") said order. Until the earlier of the expiration or termination of this Agreement or the expiration or termination of the requirements in the 0120 Final Order pursuant to said order or to the decision on any appeal therefrom, the parties will abide by the remedy plan (including but not limited to the associated performance measurements and audit provisions, if any) in the 0120 Final Order, and in any subsequent orders or decisions on appeal modifying that order. The parties acknowledge that AM-IL's obligation to abide by the 0120 Final Order as provided herein was not voluntarily "negotiated" within the meaning of Paragraph 43 of the FCC's Order in Docket 98-141, but is mandatory in Illinois in light of the pendency of ICC Docket 01-0120. Each party reserves its rights, notwithstanding anything to the contrary, to seek appropriate legal and/or equitable review and relief from the 0120 Final Order, and compliance with and implementation of said order shall not represent a voluntary or negotiated agreement under Section 252 of the Act or otherwise, and does not in any way constitute a waiver by such party of its position with respect to such order, or of any rights and remedies it may have to seek review of such order or otherwise contest the applicability of the performance measures and remedy plan.

- 2.3 In addition to the exclusions described in the performance measures and remedy plans developed within the Collaborative Process, **AM-IL/AM-OH** shall not be obligated to pay liquidated damages or assessments for noncompliance with a performance measurement to the extent that such noncompliance was the result of delays or other problems proximately caused by the actions of a Service Bureau Provider acting as CLEC's agent for connection to SBC-LEC's OSS, including Service Bureau Provider provided processes, services, systems or connectivity.